## Procedure file

### Basic information

COD - Ordinary legislative procedure (ex-codecision procedure)  
**2022/0277(COD)**

Regulation  
European Media Freedom Act  

Subject  
2 Internal market, single market  
3.30.01 Audiovisual industry and services  
3.30.02 Television, cable, digital, mobile  
3.30.04 Radiocommunications, broadcasting  
3.30.08 Press, media freedom and pluralism

Legislative priorities  
Joint Declaration 2022  
Joint Declaration 2023-24

### Key players

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<th>Committee responsible</th>
<th>Rapporteur</th>
<th>Appointed</th>
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<td></td>
<td><strong>CULT</strong> Culture and Education</td>
<td><strong>VERHEYEN Sabine</strong></td>
<td>09/02/2023</td>
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<td></td>
<td><strong>IMCO</strong> Internal Market and Consumer Protection (Associated committee)</td>
<td><strong>DIDIER Geoffroy</strong></td>
<td>23/11/2022</td>
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<td></td>
<td><strong>LIBE</strong> Civil Liberties, Justice and Home Affairs (Associated committee)</td>
<td><strong>STRUGARIU Ramona</strong></td>
<td>22/03/2023</td>
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Key players:  
VERHEYEN Sabine  
KAMMERERVT Petra  
JOVEVA Irena  
RIBA I GINER Diana  
GRISSET Catherine  
SLABAKOV Andrey  
KOULOGLOU Stelios
### Key events

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<tr>
<td>16/09/2022</td>
<td>Legislative proposal published</td>
<td>COM(2022)0457</td>
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### Technical information

- **Procedure reference**: 2022/0277(COD)
- **Procedure type**: COD - Ordinary legislative procedure (ex-codecision procedure)
- **Procedure subtype**: Legislation
- **Legislative instrument**: Regulation
- **Amending Directive**: 2010/13 2009/0056(COD)
- **Legal basis**: Rules of Procedure EP 57; Treaty on the Functioning of the EU TFEU 114
- **Other legal basis**: Rules of Procedure EP 159
- **Mandatory consultation of other institutions**: [European Economic and Social Committee](#)
- **Stage reached in procedure**: Awaiting Parliament's position in 1st reading
- **Committee dossier**: CULT/9/10141

### Documentation gateway

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<td>Economic and Social Committee: opinion, report</td>
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European Media Freedom Act

PURPOSE: to establish a common framework for media services in the internal market (European Media Freedom Act) to safeguard the pluralism and independence of the media in the EU internal market.


ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: independent media services play a unique role in the internal market. Given their unique role, the protection of media freedom and pluralism is an essential feature of a well-functioning internal market for media services. This market has substantially changed since the beginning of the new century, becoming increasingly digital and international. It offers many economic opportunities but also faces a number of challenges.

Against this background, the proposal seeks to tackle a series of problems affecting the functioning of the internal market for media services and the operation of media service providers. In particular, media companies face obstacles hindering their operation and impacting investment conditions in the internal market such as different national rules and procedures related to media freedom and pluralism. These rules include in particular scrutiny of market concentrations for media pluralism purposes and protectionist measures affecting the operation of media companies. Such rules have created fragmentation in the internal market, impacting legal certainty for media market players and resulting in additional costs when operating across borders.

The proposal is in line with the EU’s efforts in promoting democratic participation, fighting disinformation and supporting media freedom and pluralism as set out in the European Democracy Action Plan.

CONTENT: the proposal lays down common rules for the proper functioning of the internal market for media services, including the establishment of the European Board for Media Services, while preserving the quality of media services.

It is articulated around four specific objectives:

(1) Fostering cross-border activity and investment in media services by harmonising certain elements of the diverging national media pluralism frameworks, in particular to facilitate cross-border service provision. Through coordination at EU level, the proposal aims to ensure that when assessing media market concentrations independent national authorities approach media pluralism and media independence in a consistent manner.

(2) Increasing regulatory cooperation and convergence through cross-border coordination tools and EU-level opinions and guidelines. This will promote consistent approaches to media pluralism and media independence and provide effective protection for users of media services from illegal and harmful content, including online and with regard to service providers (including from third countries) not following EU media standards.

(3) Facilitating provision of quality media services by mitigating the risk of undue public and private interference in editorial freedom. The proposal aims to guarantee that journalists and editors can work without interference, including when it comes to protecting their sources and communications. By fostering editorial independence, it also guarantees better protection for the interests of recipients of media services.

(4) Ensuring transparent and fair allocation of economic resources in the internal media market by enhancing transparency and fairness in audience measurement and allocation of state advertising. The proposal aims to ensure transparency, non-discrimination, proportionality, objectivity and inclusiveness of audience measurement methodologies, in particular online. It will also ensure transparency, non-discrimination, proportionality and objectivity in allocation of state advertising to media outlets, in order to minimise the risks of the misuse of public funding for partisan interests, to the detriment of other market players. It will thus promote fair competition in the internal media market.

More specifically, the proposal lays down the following provisions:
The proposal establishes the European Board for Media Services, the collective body of independent media regulators, replacing and succeeding the European Regulators Group for Audiovisual Media Services (ERGA). It sets out the requirements for the independence of the Board and specifies its structure. The Board will receive administrative and organisational support, required for carrying out its tasks, from a secretariat provided by the Commission. The Chapter lists the tasks of the Board under the Regulation.

Large online platforms

Regarding specific issues concerning the provision of media services in a digital environment, the proposal offers additional protection against the unjustified removal by very large online platforms of media content produced according to professional standards. Such platforms will need to take all possible measures to communicate the reasons for suspending content to media service providers before the suspension takes effect. The procedure includes a series of safeguards to ensure that this early warning procedure is in line with other priorities of the Commission, such as the fight against disinformation. Any complaints lodged by media service providers must be processed with priority by those platforms. The proposal provides for a meaningful and effective dialogue between the parties to avoid unjustified content removals and for obligatory annual reporting by very large online platforms.

Audience measurement

Requirements for audience measurement systems and methodologies should be deployed by relevant market players. The rules are accompanied by an encouragement to draw up codes of conduct to foster exchanges of best practices. The proposal also provides for common requirements on the allocation of state advertising expenditure to media service providers, without affecting the public procurement rules and the State aid rules.

Cooperation and monitoring

The proposal establishes rules and procedures for regulatory cooperation and convergence in the internal media market, comprising a mechanism for structured cooperation, requests for enforcement measures, guidance on media regulation matters and coordination of measures concerning third-country media services. The provisions are intended to ensure a closer cooperation among national regulatory authorities and bodies in different areas of media regulation.

An evaluation of the instrument and a report to the European Parliament, the Council and the European Economic and Social Committee are envisaged within 4 years from its entry into force and every 4 years thereafter.

European Media Freedom Act

The Committee on Culture and Education adopted the report by Sabine VERHEYEN (EPP, DE) on the proposal for a regulation of the European Parliament and of the Council establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Subject matter and scope

The amended text stipulates that the Regulation lays down common rules for the proper functioning of the internal market for media services, including the establishment of the European Board for Media Services (the Board), and common basic principles to serve as minimum standards, while ensuring the independence of media services.

Rights of media service providers

Member States should respect effective editorial freedom of media service providers. Member States, including their national regulatory authorities and bodies, should not:

- oblige media services providers or their employees to disclose any information related to editorial processing, including on their sources, or to disseminate such information;
- access encrypted content data on any device or in any machine used by media service providers or, if applicable, their families or their employees or their family members or, if applicable, any other person belonging to their professional or private network of relationships, including occasional contacts;
- deploy surveillance measures or use surveillance technology, or instruct private entities to use such measures or such technology, in any device or machine used by media service providers;
- deploy spyware or any similar intrusive technology, or instruct private entities to use spyware or such technology, in any device or machine used by media service providers.

Safeguards for the independent functioning of public service media providers

The report stated that Member States should ensure, by means of national law and their actions, that the principles of independence, accountability, effectiveness, transparency and openness are respected when the management structures of public service media are appointed. They should also appoint an independent authority or establish independent procedures for determining the financial needs appropriate for public service media providers. Member States should ensure that independent judicial review is guaranteed.

Allocation of expenditure on state advertising

Members considered that public funding allocated for advertising purposes to a given media service provider, including an online platform provider or an online search engine provider, should not exceed 15% of the total budget allocated by the public authority to all media service providers operating at national level.

Furthermore, in the interests of transparency, Members considered it necessary to create easily understandable and publicly available reports.
in order to gather all information concerning the allocation of public funds for the purposes of state advertising and purchases provided by media service providers, providers of online platforms and providers of online search engines.

Those reports should provide a yearly overview of the total amount of public funds for the purposes of state advertising and purchases from State entities, including from third countries, allocated to each media service provider, provider of online platforms and provider of online search engines.

National regulatory authorities or bodies

Member States should proportionally increase the financial, human and technical resources allocated to national regulatory authorities or bodies in order to take into account the additional tasks conferred upon them under this Regulation.

It is proposed that national regulatory authorities or bodies should hold regular consultations with the representatives of the media sector.

Moreover, Member States should entrust the national regulatory authorities or bodies with developing and maintaining dedicated online media ownership databases. The public should have easy, swift and effective access, free of charge, to such databases.

European Board for Media Services replacing the European Regulators Group for Audiovisual Media Services (ERGA)

Members called for a new body to be set up, the European Board for Media Services (the Board), which should be legally and functionally independent from the Commission and able to act on its own, not only at the Commissions request. The board should be assisted by a separate and independent secretariat. Both the board and the secretariat should be provided with the human and financial resources necessary for the performance of their tasks. The budget of the board and the secretariat should be shown in a separate budgetary line within the relevant heading of section III of the budget of the Union.

Lastly, an independent expert group should be set up consisting of representatives from the media sector beyond the audiovisual media sector.

European Media Freedom Act

The European Parliament adopted by 448 votes to 102, with 15 abstentions, amendments to the proposal for a regulation of the European Parliament and of the Council establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU.

The matter was referred back to the committee responsible for interinstitutional negotiations.

Subject matter and scope

The amended text stipulated that the regulation lays down common rules for the proper functioning of the internal market for media services, including the establishment of the European Board for Media Services, and common basic principles to serve as minimum standards, while ensuring the independence of media services.

Rights of recipients of media services

Members want Member States to ensure, in accordance with the Charter of Fundamental Rights of the European Union, that recipients of media services have access to a plurality of media services produced by editorially independent media service providers, without any interference from the state, in order to guarantee free and democratic expression. Member States must create the necessary framework conditions to guarantee these rights and to safeguard, preserve and promote media pluralism.

Rights of media service providers

Member States should respect the effective editorial freedom of media service providers. They should not oblige them to reveal their sources, access encrypted content on their devices or target them with spyware.

By way of derogation, the use of spyware could only be justified as a last resort, on a case-by-case basis, and if ordered by an independent judicial body to investigate a serious crime punishable in the Member State concerned by a custodial sentence or detention order for a maximum period of at least five years.

Safeguards for the independent operation of public service media providers

According to Members, Member States should ensure that:

- public service media providers have full autonomy and editorial independence from governmental, political, economic or private vested interests in order to provide, in the exercise of their public service remit, in an impartial and independent manner, a plurality of information and opinions to their audiences;

- the principles of independence, accountability, effectiveness, transparency and openness are respected when the management structures of public service media are appointed.

Member States should ensure that public service media providers have adequate, sustainable and predictable financial resources on a multiannual basis for the fulfilment of their public service remit and to meet the objectives thereof.

Obligations of media service providers producing news and current affairs content

Media service providers should make the following information directly and permanently accessible in an easy manner to the recipients of their services:

- whether and to what extent their direct, indirect or beneficial ownership is held by the government, a State institution, a State-owned enterprise or another public body;

- the name and professional contact details of the natural person who bears editorial responsibility in accordance with the law of the relevant Member State;
- details concerning the ownership structure and how they are related to their parent and sister companies and their subsidiaries;
- state advertising and state financial support allocated to them.

National regulatory authorities or bodies should be entrusted to establish national media ownership databases.

Allocation of public funds for state advertising and purchases

Members considered that public funds allocated for the purposes of advertising to a singular media service provider, including to an online platform provider or to an online search engine provider, should not exceed 15% of the total budget allocated by the public authority to the totality of media service providers operating at national level.

National regulatory authorities or bodies should monitor the allocation of state funding in media markets and to providers of online platforms and providers of online search engines.

Content of media service providers on very large online platforms

Providers of very large online platforms should ensure that decisions concerning content moderation and any other actions they undertake do not negatively impact media freedom and pluralism. They should provide a functionality allowing recipients of their services to declare: (i) that they are media service providers within the meaning of the Regulation and comply with their obligations; (ii) that they are editorially independent from any Union institution, body, office or agency and from Member States, political parties and third countries; (iii) that they do not provide content generated by an artificial intelligence system without subjecting such content to human oversight and editorial control.

Members called for the creation of a mechanism to manage content takedown orders. Platforms should first process declarations to distinguish independent media from non-independent sources. Media should then be notified of the platforms intention to delete or restrict their content alongside a 24-hour window for the media to respond. If after this period the platform still considers the media content fails to comply with its terms and conditions, they can proceed with deleting, restricting or referring the case to national regulators to take the final decision without delay. However, if the media provider considers that the platforms decision does not have sufficient grounds and undermines media freedom, they have right to bring the case to an out-of-court dispute settlement body.

More independent EU media body

Members called for the European Board for Media Services to be legally and functionally independent from the Commission and able to act independently from it. They also called for an independent expert group, representing the media sector and civil society, to advise this new Board.

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